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Paper No. 6

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OFFICE OF PETITIONS

In re Application of
Imanaka, et al.
Application No. 10/052,338
Filed: January 23, 2002
Attorney Docket No. 03500.013949.1

DECISION ON
PETITION

This is a decision on the petition, filed May 14, 2002, requesting, in effect, withdrawal of the Notice to File Corrected Application Papers (Notice), mailed April 16, 2002.

The application was deposited on January 23, 2002. On April 16, 2002, the Office of Initial Patent Examination mailed a Notice informing petitioners that pages 25-47 of the specification and appeared to have been omitted and that an abstract was not provided for the above-identified application.

In response to the Notice, petitioners timely filed the present petition on May 14, 2002. Petitioners request that pages 25-47 and an abstract be accorded a filing date of January 23, 2002 on the basis that the specification, claims and abstract were received in the Patent and Trademark Office (PTO) on January 23, 2002. In support, the petition is accompanied by a copy of applicants' itemized postcard receipt showing an Office of Initial Patent Examination generated barcode citing January 23, 2002 as the date of receipt. The postcard lists, *inter alia*, that the filing included 61 pages of specification, claims and abstract.

The return postcard constitutes *prima facie* evidence that 61 pages of specification, claims and abstract were filed on January 23, 2002. MPEP 503. Pages 25-47 are part of the 61 pages filed on January 23, 2002. However, the abstract submitted with the instant petition is on page 62. Applicants' itemized postcard receipt covers only up to and including page 61. Accordingly, the request is granted with respect to withdrawing the Notice as it pertains to pages 25-47, but dismissed with respect to withdrawing the Notice as it pertains to the abstract being omitted.

A \$130.00 petition fee will be charged to petitioners' deposit account no. 06-1205.

The application is being returned to Office of Initial Patent Examination for further processing, with a filing date of **January 23, 2002**, using the copy of pages 25-47 submitted with the instant petition and the newly filed abstract.

Any inquiries pertaining to this matter may be directed to Petitions Attorney E. Shirene Willis at (703) 308-6712.

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